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20 Immigration and Customs Enforcement

21 UNITED STATES DISTRICT COURT
22 FOR THE CENTRAL DISTRICT OF CALIFORNIA

23 AMERICAN CIVIL LIBERTIES
24 UNION FOUNDATION OF
25 SOUTHERN CALIFORNIA,

26 Plaintiff,

27 v.

28 UNITED STATES IMMIGRATION
29 AND CUSTOMS ENFORCEMENT, et
al.,

30 Defendants.

31 No. 2:22-cv-04760-SHK

32 **DEFENDANT U.S. IMMIGRATION
33 AND CUSTOMS ENFORCEMENT'S
34 RESPONSE TO PLAINTIFF'S
35 SEPARATE STATEMENT OF
36 UNCONTROVERTED FACTS**

37 Honorable Shashi H. Kewalramani
38 United States Magistrate Judge

1 Pursuant to Local Rule 56-3, Defendant ICE's submits this Response to Plaintiff's
2 Statement of Uncontroverted Facts [Dkt. 112-1].

No.	PLAINTIFF'S UNDISPUTED FACT & SUPPORTING EVIDENCE	REPLY
1.	<p>Plaintiff submitted its FOIA request ("Request") to Defendant ICE on April 29, 2022, seeking information about ICE's practice of deathbed releases of immigration detainees.</p> <p>Evidence: ECF No. 1-1 (FOIA Request)</p>	<p>Undisputed that the Request is dated April 29, 2022. Disputed that it was submitted on the same date.</p> <p>Evidence: Declaration of Fernando Pineiro, ¶ 4.</p>
2.	<p>In a March 4, 2021 email, ICE's Field Operations Division directed the "LOS" Field Office "to begin the necessary paperwork for a death notification in the event of [Mr. Vargas's] demise."</p> <p>Evidence: Email chain dated Mar. 4, 2021, Ex. V, Cho Decl. at Bates 13390.</p>	Undisputed but immaterial.
3.	<p>The Department of Homeland Security Office of Civil Rights and Civil Liberties (CRCL) issued a memorandum to 13 named ICE staff related to an investigation it had conducted at the Adelanto ICE Processing Center including into a complaint regarding ICE's release of Mr. Vargas Arellano, requesting: "ICE provide a response to CRCL 60 days whether it concur or non-concur with these recommendations. If ICE concurs, please include an action plan."</p> <p>Evidence: Memorandum from Dana Salvano-Dunn, Ex. W, Cho Decl. at 1, 8-10.</p>	Undisputed but immaterial.
4.	<p>According to ICE ERO Directive No. 11853.3, <i>Significant Detainee Illness</i> (SDI Directive), ICE maintains an "SDI list" that includes cases of detainees where there is "significant coordination required to repatriate or to release a detainee/resident in the United States due to their medical condition."</p>	Undisputed but immaterial.

1	Evidence: Exhibit A to Pl.’s Jun. 26, 2023 Letter, ICE, 2 ICE ERO Directive No. 11853.3, <i>Significant Detainee</i> 3 <i>Illness</i> , Dec. 1, 2015, Ex. P, Cho Decl. at Bates No. 2047.	
4	5. The SDI Directive describes a “SDI meeting” as “a 5 collaborative effort involving IHSC, ERO Field 6 Operations, and the Office of the Principal Legal Advisor 7 (OPLA).” 8 Evidence: Exhibit A to Pl.’s Jun. 26, 2023 Letter, ICE, 9 ICE ERO Directive No. 11853.3, <i>Significant Detainee</i> 10 <i>Illness</i> , Dec. 1, 2015, Ex. P, Cho Decl., at Bates No. 11 2047.	Undisputed but 12 immaterial.
13	14 6. The Department of Homeland Security has described 15 ICE’s Joint Intelligence Operations Center (JIOC) as 16 “ICE’s JIOC “a round-the-clock facility that monitors 17 significant event reports from ICE personnel, distributes 18 information as appropriate throughout ICE, and briefs 19 ICE leadership on important past and prospective events.” 20 Evidence: DHS, <i>Privacy Impact Assessment for the</i> 21 <i>Significant Event Notification (SEN) System</i> 2 n.4, Oct. 22 15, 2021, 23 https://www.dhs.gov/sites/default/files/publications/privacy-pia-ice023a-sen-october2021.pdf 24 [https://perma.cc/7EEE-A6JW].	Undisputed but 25 immaterial.
26	27 7. The Department of Homeland Security has described ICE 28 JIOC’s involvement with Significant Event Reports (SIRS). It has stated that JIOC “analyzes the SIRS and sends summaries of them to the appropriate . . . field offices.” Evidence: DHS, <i>Privacy Impact Assessment for the</i> 29 <i>Significant Event Notification (SEN) System</i> 1-2, Oct. 15, 30 2021, 31 https://www.dhs.gov/sites/default/files/publications/privacy-pia-ice023a-sen-october2021.pdf 32 [https://perma.cc/7EEE-A6JW].	Undisputed but 33 immaterial.
34	35 8. As of April 2, 2022, ICE’s Pandemic Response 36 Requirements required facilities to “[e]valuate all new	Undisputed but 37 immaterial.

1	admissions within five days of entering ICE custody to 2 determine whether the detainees fall within . . . the 3 subclasses certified in <i>Fraihat</i> ,” to enter data into ICE’s 4 “ <i>Fraihat</i> Compliance System platform,” and, when 5 someone at risk for COVID complications tested positive 6 for COVID, complete their documentation “on the latest version of the IHSC <i>Fraihat</i> Compliance System spreadsheet.” 7 Evidence: ICE, ERO COVID-19 Pandemic Response 8 Requirements, at 9–14, 17 (Version 8.0, Apr. 2, 2022), 9 https://www.ice.gov/doclib/coronavirus/eroCOVID19responseReqsCleanFacilities-v8.pdf [https://perma.cc/3JDD-AQZ8].	10
11	9. As an ICE employee testified in a 2021 deposition, The “only place where [ICE was] actually capturing [COVID] hospitalization [data] is on the <i>Fraihat</i> [spreadsheets].” 13 Evidence: Pl.’s May 19, 2023 Letter, Excerpts of 14 Deposition of Jennifer Moon, 163:4-10, Ex. T, Cho Decl. at 11.	12 Undisputed but immaterial.
15	10. As of November 2, 2023, “[i]ndividuals at ICE who are 16 subject matter experts on the information requested [in 17 Part 9 of Plaintiff’s FOIA request] believe[d] that the 18 custodians most likely to possess responsive records 19 [we]re the Regional Field Medical Coordinators and the Regional Health Service Administrators within IHSC.” There were nine such people. 20 Evidence: Defs.’ Nov. 2, 2023 Letter, Ex. K, Cho Decl. at 21 5–6.	22 Undisputed but immaterial.
22	11. As of November 2, 2023, ICE had proposed to search for 23 documents responsive to Part 9 of Plaintiff’s FOIA request by searching IHSC’s Regional Field Medical 24 Coordinators’ and Regional Health Service Administrators’ records using the following search: (bill! OR invoice! OR charges OR payment OR benefits) 26 AND (discharge OR transfer OR custody OR release OR 27 Medicare OR PRUCOL OR “Martin Vargas Arellano”	25 Disputed. Plaintiff misstates the search and omits the Boolean connectors. Evidence: Defs.’ Nov. 2, 2023 Letter, Ex. K, Cho Decl. at 5–6.

1	2	OR “Teka Gulema” OR “Jose Ibarra Bucio” OR “Johana 3 Medina Leon” OR “Jonathan Alberto Medina Leon”) 4 Evidence: Defs.’ Nov. 2, 2023 Letter, Ex. K, Cho Decl. at 5–6.	6
7	8	12. As of November 9, 2023, the parties were in agreement 9 that ICE would search for documents responsive to Part 9 10 of Plaintiff’s FOIA request by searching IHSC’s Regional 11 Field Medical Coordinators’ and Regional Health Service 12 Administrators’ records using the following search: 13 (bill! OR invoice! OR charges OR payment OR 14 benefits) AND (discharge OR transfer OR custody 15 OR release OR Medicare OR PRUCOL OR 16 “Martin Vargas Arellano” OR “Teka Gulema” OR 17 “Jose Ibarra Bucio” OR “Johana Medina Leon” OR “Jonathan Alberto Medina Leon”) 18 The Court cited this agreement in a December 8, 2023 19 order, and Plaintiff cited it in a March 1, 2024 status 20 report. 21 Evidence: Defs.’ Nov. 2, 2023 Letter, Ex. K, Cho Decl. at 22 5–6; Pl.’s Nov. 9, 2023 Letter, Ex. J, Cho Decl. at 5; ECF 23 No. 62 at 11; ECF No. 70 at 12.	24 Disputed. Plaintiff 25 misstates the search 26 and omits the 27 Boolean connectors. 28 Evidence: Defs.’ Nov. 2, 2023 Letter, Ex. K, Cho Decl. at 5–6.
29	30	13. ICE has never searched IHSC’s Regional Field Medical 31 Coordinators’ and Regional Health Service 32 Administrators’ records using the following search: 33 (bill! OR invoice! OR charges OR payment OR benefits) 34 AND (discharge OR transfer OR custody OR release OR 35 Medicare OR PRUCOL OR “Martin Vargas Arellano” 36 OR “Teka Gulema” OR “Jose Ibarra Bucio” OR “Johana 37 Medina Leon” OR “Jonathan Alberto Medina Leon”) 38 Evidence: Search Summary, Ex. A, Cho. Decl. at 11.	39 Disputed. 40 The concurrently 41 filed Declaration of 42 Fernando Pineiro 43 explains ICE’s 44 search for records 45 responsive to Part 9 46 of the Request and 47 why ICE is unable 48 to conduct searches 49 without having 50 specific names to 51 search for. See 52 Pineiro Decl., ¶ 75-81

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3 Dated: March 19, 2025

Respectfully submitted,

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